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| 10/564,873 | 01/17/2006 | Richard Fargo | OTS166/60469-250 | 3868 |
| 64779 7590 07/09/2009 CARLSON GASKEY & OLDS 400 W MAPLE STE 350 BIRMINGHAM, MI 48009 | | | | |
| EXAMINER | | | | |
| KRUEER, STEFAN | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: RICHARD FARGO and RICHARD L. HOLLOWELL

Application 10/564,873
Appeal 2008-003304
Technology Center 3600

Mailed: July 9, 2009

Before DALE M. SHAW, *Chief Appeals Administrator*.

ORDER REMANDING APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on April 15, 2008. On May 7, 2008, a Docketing Notice was mailed, and Appeal No. 2008-003304 was assigned. A review of the application revealed that it is not ready for docketing as an appeal. Upon review of the application, it has been determined that a remand to Examiner, via the Office of the Director of the Technology Center, is necessary to consider the following issues and to take necessary corrective action.

APPEAL BRIEF, APPEALED CLAIMS

Appellant has not appealed all rejected claims. Specifically, a review of the Grounds of Rejection on the record finds that rejections are outstanding for the following pending claims: 1-20. The rejected claims that have not been appealed and argued for appeal are claims 13-16, 18 and 20.

DISCUSSION

The Board of Appeals and Interferences (Board), in *Ex parte Ghuman*, <http://www.uspto.gov/web/offices/dcom/bpai/prec/rm081175.pdf> (BPAI May 14, 2008) (precedential), held that in appeals where rejected claims are expressly withdrawn, or are implicitly withdrawn by not presenting arguments in support of patentability, the Board will remand (or return) the application to the Examiner with instructions to cancel the expressly or implicitly withdrawn claims. *See also Manual of Patent Examining Procedure* (MPEP) § 1215.03 (8th ed. Rev. 7, Sept 2008).

CONCLUSION

Accordingly, it is

ORDERED that the application is remanded to the Examiner

- 1) to have the applicant submit a paper canceling claims 13-16, 18 and 20, and rewriting claims 17 and 19 into independent form;
- 2) upon entry of the paper, to return the application to the Board for the consideration of appealed claims; and
- 3) for such further action as may be appropriate.

Appeal No. 2008-003304
Application No. 10/564,873

If there are any questions pertaining to this Order, please contact the
Board of Patent Appeals and Interferences at 571-272-9797.

DMS/saw

CARLSON GASKEY & OLDS
400 W MAPLE STE 350
BIRMINGHAM MI 48009